IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1555 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE KSHITIJ R.VYAS
HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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CHANCHALBEN ATMARAM PATEL & 2 - Petitioner(s)

Versus

STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR KM SHETH for Petitioner(s) : 1 - 3.
Mr S P Hasurkar, Asstt.GOVERNMENT PLEADER for Respondent(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 1 - 2.
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CORAM : HONOURABLE MR.JUSTICE KSHITIJ R.VYAS
and
HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 14/02/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA)

Rule. Mr S P Hasurkar, learned AGP waives service of notice of rule on behalf of the respondents. At the request of the learned Advocates

for the parties, the matter is taken up for final hearing today itself.

2. In this petition, the grievance of the petitioner is that in pursuance of the application made under section 28A of the Land Acquisition Act (for short, 'the Act') by the petitioner on 26.3.1999 to respondent no.1 i.e. Special Land Acquisition Officer, Ahmedabad, till this date the amount of compensation has not been paid to the petitioners. The petitioners were the owners of the lands situated at village Bareja, Taluka Daskroi, Ahmedabad District bearing survey Nos. 2199 and 2203 ad measuring 1392 sq.metres. The lands were acquired for constructing a four lane Highway between Ahmedabad and Bareja. After completion of the proceedings under the Land Acquisition Act, the award was made by respondent no.1 determining compensation @ Rs. 5/- to Rs.8/- per sq.metre. Against the said award, certain claimants preferred reference to the District Court by making application under section 18 of the Act and the learned Joint District Judge, Ahmedabad (Rural), Mirzapur decided the said land acquisition cases i.e. Case No. 137/89 to 151/89 by judgment and award dated 8.9.1995. The petitioners, on learning about the award made by the learned Joint District Judge, procured copy of the judgment and award and submitted application under section 28A of the said Act to respondent no.1 on 27.2.1996 with a request to enhance the rate of

compensation on par with the rate determined by the Reference Court. It appears from the affidavit-in-reply filed by respondent no.1 that the application was decided on 26.3.1999. Of course, the grievance of the petitioners in this petition is that till this date, the decision has not been made on the application. However, the affidavit-in-reply specifies the date of the award. Now the grievance of the petitioners is that even when the application is decided in the year 1999, no compensation has been paid till this date. The respondents are not in a position to controvert this aspect. It is the say of respondents no.1 and 2 that the lands were acquired for the National Highway Division i.e the newly added respondent and, therefore, it is that authority which has to make the payment of compensation as respondents no.1 and 2 are merely the acquiring bodies. Mr Hasurkar has also advanced his submission on the same line. We are not at all impressed with the submission of Mr Hasurkar and also the stand taken by the respondents. When the lands of the petitioners have been acquired for construction of National Highway, it is the bounden duty of that respondent to see that compensation is paid to the petitioners and that too within a reasonable time. The lands were acquired in the year 1984. As stated above, the District Court decided the reference in the year 1995. The application under section 28A of the Act was submitted by the petitioners on 27.2.1996 and thereafter the award was made on 26.3.1999.

There is no dispute that till this date, compensation has not been paid. The net result is that for the lands which have been acquired in the year 1984 for almost 22 years the petitioners have been deprived of the proper amount of compensation. No compensation has been paid to the petitioners except the compensation determined by the Special Land Acquisition Officer i.e. Respondent no.1 which is found to be inadequate. If we take into consideration the enhanced amount of compensation, even that has not been paid though 11 long years have passed since the District Court made the award. Such period, by no stretch of imagination, can be termed as 'reasonable'. Even till this date, the compensation amount has not been paid. Hence, it is necessary that the respondents be directed to pay amount to the petitioners together with interest at the earliest. We, therefore, direct the respondents to pay the award amount together with interest on or before 31.3.2006. It is stated by Mr K M Sheth that interest upto 31.5.2004 has already been calculated by respondent no.1. He makes this statement on the basis of the communication addressed to the National Highway Division by respondent no.1. We, therefore, direct that now for the period commencing from 31.5.2004 till the payment is made, the respondent shall pay interest at the current market rate.

3. With this direction, the petition is allowed. Rule is made absolute

with no order as to costs.

[Kshitij R Vyas, J.]

[Akshay H Mehta, J.]

msp